

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

EMMANUEL LOCKETT,

Plaintiff,

v.

SELF FINANCIAL, INC.,

Defendant.

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Civil Action No. 1:21-cv-668

Defendant Self Financial, Inc.’s Notice of Removal

Pursuant to 28 U.S.C. § 1446(a), Defendant Self Financial, Inc. (“Self”) files this Notice of Removal from the Justice Court, Precinct 5, of Travis County, Texas to the United States District Court for the Western District of Texas, Austin Division. Self files this Notice of Removal with full reservation of any and all rights, defenses, and objections. Self removes this case pursuant to and in accordance with 28 U.S.C. § 1441(c) and § 1367.

I. Venue

1. The Justice Court, Precinct 5, of Travis County, Texas is located within the Western District of Texas. This Court is the proper venue for removal of this action pursuant to 28 U.S.C. § 1441(a) as the district and division embracing the place where the action was pending.

II. Facts Alleged Supporting Removal

2. On June 25, 2021, Plaintiff Emmanuel Lockett (“Plaintiff”) filed a civil action against Self in the Justice Court, Precinct 5, of Travis County, Texas styled *Emmanuel Lockett v. Self Financial, Inc.* and bearing Cause No. J5-CV-21-260028.¹

3. Plaintiff alleges breach of contract and violation of the Fair Credit Reporting Act

¹ See Attachment 2, Plaintiff’s Original Petition.

(FCRA) “due to negligence and failure to report accurate and updated information to the Consumer Reporting Agencies.”² Plaintiff seeks damages of \$20,000.00 and an update to his consumer report “that the account was paid in full.”³

III. Legal Basis for Removal

4. Self is the only named defendant in this suit and, accordingly, all defendants join in and/or consent to removal.

5. Title 28, Section 1441, of the United States Code codifies removal. Section 1441 provides, in part:

(a) Generally. Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

...

(c) Joinder of Federal law claims and State law claims.

(1) If a civil action includes—

(A) a claim arising under the Constitution, laws, or treaties of the United States (within the meaning of section 1331 of this title [28 USCS § 1331]), and

(B) a claim not within the original or supplemental jurisdiction of the district court or a claim that has been made nonremovable by statute, the entire action may be removed if the action would be removable without the inclusion of the claim described in subparagraph (B).

(2) Upon removal of an action described in paragraph (1), the district court shall sever from the action all claims described in paragraph (1)(B) and shall remand the severed claims to the State court from which the action was removed. Only defendants against whom a claim described in paragraph (1)(A) has been asserted are required to join in or consent to the removal under paragraph (1).

6. Plaintiff alleges violations of federal statute, specifically the FCRA, which is found

² *Id.*

³ *Id.*

in Title 15, Section 1681 *et seq.*, of the United States Code.⁴

7. “This court has original federal question jurisdiction over actions brought under the FCRA without regard to the amount in controversy, Title 15 U.S.C. § 1681p. Thus, actions brought in state court under the FCRA are removable to federal district court.”⁵ Such claims arise under the Constitution, laws, and/or treatises of the United States over which this Court has original jurisdiction.⁶

8. Any and all of Plaintiff’s other allegations and claims, which do not also arise under federal statute, are nevertheless “so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.”⁷ While Plaintiff alleges little facts in his state court petition, he alleges that Self failure to report accurate information.⁸ This is the very subject for which the FCRA is intended to govern: “the use of and the procedures related to credit reports,” “the responsibilities of furnishers of information to consumer reporting agencies,” and possible “civil liability due to both willful and negligent non-compliance.”⁹ This Court has supplemental jurisdiction over Plaintiff’s remaining state law claims.

9. Removal of this action is proper, as Plaintiff’s action includes a claim arising under the Constitution, laws, or treatises of the United States and all other claims plead are within the supplemental jurisdiction of this Court.

⁴ *Id.*

⁵ *Washington v. Direct Gen. Ins. Agency*, 130 F. Supp. 2d 820, 824 (S.D. Miss. 2000).

⁶ *See* 28 U.S.C. § 1331.

⁷ *Id.* at § 1367(a).

⁸ *See* Attachment 2.

⁹ *See Washinton*, 130 F. Supp. 2d at 824.

10. Self reserves all rights, defenses, and objections, including but not limited to defenses and objections to venue and personal jurisdiction, and the filing of this Notice of Removal is subject to, and without waiver of, any such defenses and objections.

PRAYER

Defendant Self Financial, Inc. prays the United States District Court for the Western District of Texas, Austin Division, sustain its removal of the case styled *Emmanuel Lockett v. Self Financial, Inc.* and pending before the Justice Court, Precinct 5, of Travis County, Texas bearing Cause No. J5-CV-21-260028.

Respectfully submitted,

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*Attorneys for Defendant,
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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document has been served in accordance with Federal Rules of Civil Procedure on this 30th day of July, 2021.

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/s/ Chelsea J. Lu
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